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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re Amendment of Section 73.202(b))
of the Commission's Rules, Table of Allotments,)
FM Broadcast Stations)
(LLANO AND JUNCTION, TEXAS))
(GOLDTHWAITE, TEXAS))

MM Docket No. 05-151

RM-11222

RM-11258

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Federal Communications Commission
Office of Secretary

To: The Office of the Secretary,
for the Attention of the Assistant Chief, Audio Division, Media Bureau

FURTHER REPLY COMMENTS

MUNBILLA BROADCASTING PROPERTIES, LTD.

JOHN J. McVEIGH, ATTORNEY AT LAW
12101 BLUE PAPER TRAIL
COLUMBIA, MARYLAND 21044-2787

TELEPHONE: 301.596.1655
TELECOPIER: 301.596.1656

ITS COUNSEL

DATE: JULY 25, 2005

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SUMMARY

These are the Further Reply Comments of Munbilla Broadcasting Properties, Ltd. (MPBL) in MM Docket 05-151 (Llano and Junction, and Goldthwaite, Texas). MBPL filed a Counterproposal in this proceeding urging the Commission to allot Channel 297A as a first local service to Goldthwaite. The Counterproposal is superior on § 307(b) grounds to the proposal set forth in the Notice of Proposed Rule Making, because Llano already has local service. By means of a July 8 Public Notice, the FCC accepted MBPL's Goldthwaite Counterproposal for rule making, and assigned to it the Rule Making number RM-11258. The Public Notice solicited statements and Reply Comments supporting or opposing the Counterproposal. MBPL is filing these Further Reply Comments in response to that Public Notice.

Rawhide Radio, LLC, Clear Channel Broadcasting Licenses, Inc., CCB Texas Licenses, L.P., and Capstar TX Limited Partnership (collectively, CC/R), filed a complex Counterproposal in the Fredericksburg, Texas proceeding (MB Docket No. 05-112) two days before MBPL filed its Goldthwaite Counterproposal. One element of CC/R's Counterproposal short-spaced both the Fredericksburg and Llano Notices of Proposed Rule Making. That same element also short-spaced MBPL's Goldthwaite Counterproposal. Obviously unaware of the existence of MBPL's Goldthwaite Counterproposal, CC/R also filed Comments in this Llano proceeding, arguing that their filing of the Fredericksburg Counterproposal required the FCC to subsume Llano into Fredericksburg, and to grant CC/R's Counterproposal in the latter proceeding, to the prejudice of both the Fredericksburg and Llano Petitioners.

However, the same element of CC/R's Counterproposal that short-spaced the Fredericksburg and Llano NPRMs, as well as MBPL's Goldthwaite Counterproposal, also short-spaced an actual facility owned by MBPL (station KHLB), which is operating pursuant to Program Test Authority by virtue of a Construction Permit whose grant long ago became final. In initial Reply Comments that MBPL filed (by the NPRM-specified deadline) in both the Fredericksburg and Llano dockets, MBPL pointed out the short spacing to its existing facility, and also insisted that the FCC protect the CP. MBPL showed that, under firmly established precedent, CC/R's impermissible short-spacing of MBPL's CP rendered CC/R's Counterproposal facially, fatally flawed, and wholly unacceptable for rule making. MBPL also asserted that CC/R's Counterproposal was duplicative in light of CC/R's continued prosecution of a rejected Counterproposal in MM Docket 00-148 (Quanah, Texas). On those grounds, MBPL urged the summary dismissal of CC/R's Fredericksburg Counterproposal and the adoption of MBPL's Goldthwaite Counterproposal in this Llano docket.

CC/R then sought to seek to file a curative Supplement to their fatally flawed Counterproposal in this proceeding (MB Docket No. 05-112). The Supplement sought to specify a new reference point for the Llano component of CC/R's Counterproposal so as to clear the KHLB CP. MBPL opposed CC/R's attempt as a belated effort to fix a fatally defective Counterproposal. MBPL pointed out that the FCC wisely limits such technical amendments to situations in which "unforeseen circumstances" exist. MBPL showed that there were absolutely no unforeseen circumstances here. CC/R had actual knowledge that MBPL had filed the KHLB

site-change application, and had at least constructive knowledge of both the application's grant and the relevant protection requirements, both before and after grant. Given that there were no unforeseen circumstances, the proffered amendment had to be rejected, MBPL said. Any other course of action would cause unfair prejudice to other parties, including MBPL, and would wreak havoc with the orderly processing of FM Allotment proposals. The FCC must therefore summarily deny the Motion.

CC/R replied to MBPL's Oppositions, claiming that it was the KHLB CP that had to protect their Fredericksburg Counterproposal, and not the other way around. This, CC/R said, was because CC/R's Quanah and Fredericksburg Counterproposals, "... are the same." CC/R also said that the Commission's Auburn, Alabama decision did not support the issuance of the Fredericksburg or Llano NPRMs, because no amendment to the FM Table had been made. CC/R also reiterated their claim that Llano had to be collapsed into Fredericksburg, due to their Counterproposal in the latter proceeding.

In this pleading, MBPL shows that this is a false statement. CC/R's Quanah and Fredericksburg Counterproposals are hardly the same. Without trumpeting the fact, CC/R seek to move the reference point for one element of its Counterproposal by a significant distance. This represents outright misrepresentation, or at a minimum a lack of candor, and also unwarranted gamesmanship. CC/R cannot be allowed to succeed. In addition to rejecting the Fredericksburg Counterproposal, the Commission must fully investigate this matter.

CC/R's attempts to straitjacket the Commission's Auburn decision must fail. Auburn represented a broad policy statement in addition to a decision on specific facts. The issuance of the Fredericksburg and Llano NPRMs fully comported with the Auburn policy statement, as did the grant of the KHLB Construction permit.

The Commission must act in Llano independently of Fredericksburg, and must grant MBPL's Goldthwaite Counterproposal.

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FURTHER REPLY COMMENTS

Munbilla Broadcasting Properties, Ltd. (*MPBL*), by its communications counsel, hereby
files its Further Reply Comments in this proceeding.

I. BACKGROUND

A. THE LLANO PETITION AND THE NPRM

1. At Linda Crawford's behest, the Bureau issued a Notice of Proposed Rule Making, 20
FCC Rcd 6318, 70 Fed. Reg. 19402 (2005) (the NPRM), proposing to allot Channel 297A to
Llano, Texas as a new local service. The NPRM noted that a dismissed cochannel proposal in
MM Docket No. 01-154 (Goldthwaite, Texas) could potentially trump the Llano allotment due
to both short-spacing and the pendency of the Goldthwaite Petitioner's Application for
Review.¹ Citing Auburn, Alabama, et al., 18 FCC Rcd 10333 (MB 2003), the NPRM cautioned

¹The basis for the Goldthwaite Petition's dismissal was that it constituted an untimely
Counterproposal to the dismissed, multielement Counterproposal in MM Docket No. 00-148.

that the Llano allotment could only be made subject to the outcome in MM Docket No. 01-154.² The NPRM set deadlines of May 12 for Comments and Counterproposals, and of May 27 for initial Reply Comments.

B. RESPONSIVE FILINGS

1. PETITIONER'S COMMENTS

2. Ms. Crawford filed timely Comments reiterating her intent to apply for Channel 297A at Llano, if allotted, and to construct such facilities, if authorized.

2. MBPL's COUNTERPROPOSAL

3. MBPL filed a timely Counterproposal seeking the allotment of Channel 297A to unserved Goldthwaite, Texas. MBPL's Counterproposal noted that it, like the Llano proposal, would be trumped if the FCC granted review in Quanah. Still, MBPL noted, its Counterproposal was acceptable for rule making, pursuant to Auburn, supra. MBPL further noted that, on § 307(b) grounds, its Counterproposal must prevail over the Petitioner's Llano proposal. MBPL stated its intent to apply for Channel 297A at Goldthwaite, if allotted, and to build and to place such facilities into broadcast service, if authorized.

3. CC/R COMMENTS

4. A group of entities —Rawhide Radio, LLC, Clear Channel Broadcasting Licenses, Inc., CCB Texas Licenses, L.P., and Capstar TX Limited Partnership (collectively,

²The NPRM did not so state, but Ms. Crawford's Petition also recognized that allotment of Channel 297A to Llano as a new service required affirmation of the (effective, but not yet final) dismissal of a multielement Counterproposal in MM Docket 00-148 (Quanah, Texas).

CC/R) — also filed timely Comments. CC/R noted that they had filed a multielement Counterproposal in MB Docket No. 05-112 (Fredericksburg, Texas), and that the proposed Llano allotment was short-spaced to one component of that Counterproposal — the shift of Llano station KQBT from Channel 242A to Channel 297A. CC/R thus urged the FCC to collapse the Llano proceeding into Fredericksburg, and urged the adoption of their Counterproposal therein.

5. CC/R described its Fredericksburg Counterproposal as, "... *identical* to the portion of CC/R's original [Counter-]proposal in [Quanah] that remains before the Commission on Application for Review."³ [Emphasis added.] CC/R also pointed out that their multielement Counterproposal in Quanah could also trump the NPRM. Therefore, CC/R urged that the outcome here in Llano be conditioned on the outcome in Quanah. CC/R's Comments did not address MBPL's Counterproposal, as CC/R were not aware of it on the Comment deadline.

4. MBPL'S INITIAL REPLY COMMENTS

6. On May 25, MBPL tendered its initial Reply Comments. MBPL pointed out the conflict between its own Counterproposal and CC/R's Counterproposal in Fredericksburg. MBPL also referenced Reply Comments that MBPL had filed in that other docket. In its pair of Reply Comments, MBPL asserted that the FCC *should not* collapse the Llano docket into the Fredericksburg proceeding because CC/R's Counterproposal was fatally flawed. CC/R's Fredericksburg Counterproposal failed to protect the outstanding construction permit that MBPL held for station KHLB (BPH-20030902ADU), which facilities MBPL had built, and for

³In Quanah, the staff had rejected CC/R's Counterproposal as fatally flawed, and had later denied reconsideration of that rejection. See, Quanah Texas, 18 FCC Rcd 9495 (2003), recons. den., 19 FCC Rcd 7159 (2004).

which an application for a covering license was pending. MBPL also asserted that, although the KHLB CP bore a condition tying its fate to the outcome in Quanah, the condition *did not* tie the CP's fate to the outcome in Fredericksburg. MBPL pointed out that CC/R's Fredericksburg Counterproposal had falsely termed BPH-20030902ADY an application subject to consolidation in that docket. Even if BPH-20030902ADU were simply a pending application, MBPL showed, it would still be entitled to protection from CC/R's Fredericksburg Counterproposal. MBPL also showed that CC/R's lodging of a Counterproposal in Fredericksburg while continuing to prosecute its Counterproposal in Quanah constituted impermissible fence-straddling of the type prohibited by the Commission's policy against the filing of contingent rule-making proposals and by the inconsistent-, multiple-, and contingent-application rules.

5. CC/R'S MOTION TO FILE SUPPLEMENT, AND RELATED PLEADINGS

7. After the NPRM's deadline for Reply Comments, CC/R filed Motions in both Fredericksburg and Llano seeking to tender Supplements to amend CC/R's reference point for Channel 297A in Llano to clear KHLB's CP. CC/R asserted that this amendment comported with the FCC's policy to resolve conflicts through use of alternative reference points, and that the FCC would have considered the alternative reference point on its own motion. CC/R also advanced the astounding claim that it was not their Counterproposal that was defective, but rather, it was MBPL's CP that was short-spaced. CC/R claimed that MBPL's Construction Permit had to protect their Fredericksburg Counterproposal, and not vice versa.

8. CC/R also claimed that this was a case of first impression owing to, "... the Commission's expansive interpretation of the *Auburn, Alabama* policy." CC/R claimed that

Auburn does not control here because in Fredericksburg and Llano, unlike in Auburn, "...there has been no non-final grant of an amendment to the Table of Allotments."

9. MBPL opposed both Motions, showing that the FCC allows post-Comment-deadline changes to Counterproposals only when unforeseen circumstances exist,⁴ that no such circumstances existed here, and that allowing CC/R to cure the fatal defect in its Fredericksburg Counterproposal would make a shambles of the FCC's firmly established policy that, ".... counterproposals must be technically correct and substantially complete when filed." Parker, Arizona, 17 FCC Rcd 9578 (2002), Broken Arrow and Bixby, Oklahoma, 3 FCC Rcd 6507, 6511 (1988), Springdale Arkansas et al., 4 FCC Rcd 674 (1989), recon., 5 FCC Rcd 1241 (1990).

10. BPH-20030902ADU had been the subject of repeated public notices, both before and after grant, had been placed in the FM Engineering Data Base, and had drawn no opposition filings. It was entitled to protection whether it was a pending application or a granted CP. And even a casual interrogation of the FCC's public records would have revealed that it was a granted CP for almost a year before CC/R filed its Fredericksburg Counterproposal. That CC/R relied on an almost-one-year-old Engineering Statement in filing its Fredericksburg Counterproposal hardly supported a claim of unforeseen circumstances. CC/R's counsel had, in another proceeding, noted its practice to rely on , "... contemporaneously generated spacing studies."

11. CC/R replied to both MBPL Oppositions. CC/R again claimed that the amendment to its Counterproposal was proper, that the FCC should collapse Llano into Fredericksburg, and that the KHLB CP needed to protect the Counterproposal.

⁴Milford, Utah, 19 FCC Rcd 10335 (MB, 2004), Amboy, California, 19 FCC Rcd 12405 (MB, 2004).

C. PUBLIC NOTICE OF ACCEPTANCE FOR RULE MAKING

12. On July 8, by means of Report No. 2720, the FCC issued a Public Notice announcing the acceptance of MBPL's Goldthwaite Counterproposal for rule making, and the assignment to that Counterproposal of the Rule Making number RM-11258. The Public Notice solicited statements and Reply Comments supporting or opposing the Counterproposal. MBPL is filing these Further Reply Comments in response to that Public Notice.

II. ARGUMENT

CC/R's COUNTERPROPOSAL IN FREDERICKSBURG IS NO BASIS TO COLLAPSE LLANO

13. MBPL recognizes that, under the established law concerning cut-off dates and "daisy chains," the filing of a meritorious Counterproposal in one proceeding can lead to the implosion of a second docket due to the linking effects of a conflict between the Counterproposal and the second rule-making petition. See, e.g., Saratoga et al., Wyoming, 15 FCC Rcd 10054 (MB, 2000). However, CC/R's filing of a Counterproposal in Fredericksburg provides no basis for collapsing this Llano docket into the Fredericksburg proceeding. That is because, for several reasons, CC/R's Counterproposal is facially, fatally flawed, and wholly unacceptable for rule making.

A. CC/R's COUNTERPROPOSAL IMPERMISSIBLY FAILED TO PROTECT KHLB

14. In MBPL's Fredericksburg Reply Comments, MBPL showed that CC/R's Counterproposal failed to protect the CP that the FCC had duly granted to MBPL almost a year

before CC/R filed their Fredericksburg Counterproposal.⁵ The grant of BPH-20030902ADU became final at the close of Commission business on August 10, 2004, nine months before CC/R filed their Counterproposal. The grant vested in the CP and in MBPL a statutory right to protection, 47 U.S.C. § 316, and MBPL insists on the full honoring of that right.

15. The CP does bear a condition that ties the grant to Quanah's final outcome. MBPL both sought and accepted the CP with that condition. Based on the evident weakness of CC/R's position in the Quanah proceeding, MBPL was comfortable running the slight risk that Quanah's final outcome might require dismantlement of the applied-for facility. MBPL built the facility with that minimal risk in mind.⁶ But MBPL *never* agreed to subordinate either its CP or the covering license to the outcome of a wholly new and different proceeding. MBPL vigorously contests CC/R's effort to conflate the CP's dependency on Quanah's outcome into a dependency on the outcome in Fredericksburg or any other proceeding. Such a broadening of the condition would be a material modification of the terms and conditions of an authorization whose grant long ago became final. Such a material modification would grossly violate MBPL's statutory rights.

16. It is simply not possible for the KHLB CP to protect the Llano component of CC/R's Fredericksburg Counterproposal as filed (or vice versa), because the 60-dBμ contour of a Class A allotment at CC/R's originally proposed reference point (North Latitude 30° 43' 40", West Longitude 98° 36' 43" envelopes KHLB's transmitter site. See Exhibit A at pp. 2-3.

⁵CC/R's Counterproposal as filed short-spaced the KHLB CP by three kilometers. See Exhibit A hereto, the Engineering Statement of Hatfield & Dawson Consulting Engineers.

⁶MBPL also understands that, if Quanah is not finally resolved by the grant date, the license (File No. BLH-20050307ABE) to cover the CP will bear a similar condition.

17. CC/R have belatedly tried to cure their Fredericksburg Counterproposal's failure to protect the KHLB CP by offering an alternative reference point for Channel 297A at Llano. The FCC cannot allow the attempted fix, because it came too late. As the Bureau noted in Parker, Arizona, 17 FCC Rcd 9578 (MB, 2002):

It is well established that counterproposals must be technically correct and substantially complete when filed and that counterproposals will be considered only if they are filed by the deadline date for comments. See Section 1.420 (d) of the Commission's Rules, Broken Arrow and Bixby, Oklahoma, 3 FCC Rcd 6507, 6511 (1988) and Springdale Arkansas et al., 4 FCC Rcd 674 (1989), recon., 5 FCC Rcd 1241 (1990).

For their Fredericksburg Counterproposal to have been technically correct and substantially complete by the Comment deadline, CC/R either would have had to specify a fully-spaced Llano reference point, or would have had to provide a statement of MBPL's consent to a site change:

"[C]lear consent to such changes had to be provided at the deadline for filing counterproposals or [the] counterproposal would not be technically correct or substantially complete. See Llano and Marble Falls, Texas, 12 FCC Rcd 6809, 6810 note 3 (1997) and Claremore, Oklahoma et al., 3 FCC Rcd 4037 (1988). Thus, failure to demonstrate such consent by [Station KHLB] renders [the] counterproposal unacceptable for consideration."

Parker, Arizona, supra. CC/R *did not even try* to obtain such a statement from MBPL.

B. CC/R'S COUNTERPROPOSAL IMPERMISSIBLY FAILED TO PROTECT KLMO-FM

18. As Exhibit A further indicates, another element of CC/R's Fredericksburg Counterproposal (substitution of Channel 254A for Channel 243A at Ingram, Texas) failed to protect the granted Construction Permit (File No. BPH-20010102AAO) associated with Channel 255C1 Dilley, Texas station KLMO-FM, FCC Facility ID No. 16931. That facility has been constructed, the station is operating pursuant to a grant of Program Test Authority, and a license application (File No. BLH-20050324ABT) is pending. The short spacing totals seven

kilometers. CC/R have tried to explain away this rule violation by arguing that the KLMO-FM CP application provided protection under §73.2152 to the Channel-254A/Ingram component of their rejected Quannah counterproposal. CC/R would have it that the mere existence of their earlier and twice-rejected Ingram-channel-substitution proposal is enough to excuse their Fredericksburg Docket counterproposal's violation of §73.207 to KLMO-FM.

19. However, CC/R's argument flies in the face of the bedrock principle that the FCC *does not allow the use of contour protection at the allotment stage*. See, e.g., Telluride and Norwood, Colorado, 17 FCC Rcd 2239 (MB, 2002). Compare, Ankeny and West Des Moines, Iowa, 15 FCC Rcd 4413 (MMB, 2000) (*earlier-filed* rule-making proposal not defective due to short-spacing created by *later-filed* application invoking contour protection). Here, we have the reverse of Ankeny et al.: CC/R's Fredericksburg Counterproposal was filed *more than three years after* the grant of the KLMO-FM Construction Permit. It was thus incumbent on CC/R to specify a reference point for their proposed substitute channel at Ingram that fully cleared the KLMO-FM CP. The gross short spacing that CC/R have proposed is another fatal flaw in their Fredericksburg Counterproposal.

C. CC/R'S COUNTERPROPOSAL IMPERMISSIBLY FAILED TO PROTECT BATESVILLE

20. As Exhibit A further indicates, another element of CC/R's Fredericksburg Counterproposal (reallotment of Channel 249C1 from McQueeney to Converse, Texas) failed to protect the proposed allotment of Channel 250A to Batesville, Texas. See, Batesville, Texas et al., 16 FCC Rcd 12680. A whopping 24 kilometers of short spacing exists. CC/R argue that the Batesville NPRM never should have issued, but even if true, that is irrelevant. Batesville is an

element of their Fredericksburg Counterproposal. Without any discussion in the pleading itself or the narrative of the accompanying engineering statement, CC/R have shifted the reference point by 8.31 km... five miles. The Commission's FM Engineering Data Base currently lists two entirely different reference points for the proposed Channel 247C1 at Lakeway.... one referenced to MM Docket 00-148 (Quanah), and one referenced to MB Docket 05-112 (Fredericksburg.) CC/R are thus trying to protect two completely different reference points for the Lakeway allotment. As a result, there is an additional nearly 4,500 square kilometers of precluded area with respect to cochannel Class C stations. See Exhibit A at pp. 9-10 and Figures.

22. This difference in Lakeway reference points proves that the Quanah and Fredericksburg Counterproposals are two distinct proposals. Protecting two such hypothetical facilities for the same allotment to coexist in the data base impermissibly warehouses spectrum and could lead to protracted spectrum entanglements. Cf., Pacific Broadcasting of Missouri, LLC, 18 FCC Rcd 2291 (2003). This is precisely why the Commission does not accept alternative allotment proposals, inconsistent applications, and contingent allotment proposals.

E. CC/R'S MISBEHAVIOR IN LLANO AND FREDERICKSBURG CALLS FOR REJECTION OF THEIR COUNTERPROPOSAL AND FURTHER INVESTIGATION

23. CC/R's behavior in the Fredericksburg and Llano dockets has been troubling in the extreme. As indicated above, CC/R have made repeated, blatantly false statements in an effort to convince the Commission that their Fredericksburg and Quanah Counterproposals are "the same," so that they will receive the same protection. A false statement made for the purpose of deceiving the Commission and obtaining some benefit constitutes misrepresentation. Fox River Broadcasting, Inc., 93 FCC 2d 127, 129 (1983), Swan Creek Communications v. FCC, 39 F.3d

1217, 1222 (D.C. Cir. 1994); Garden State Broadcasting Ltd. Partnership v. FCC, 996 F.2d 386, 393 (D.C. Cir. 1993). Such misrepresentation fatally taints a party's proposal and call into question the party's basic qualifications to hold any FCC authorization. Fox River, supra.

24. It appears that CC/R went to deliberate effort to play down the fact that they were using a different reference point at Lakeway. Notably, the spacing study included for Channel 247C1 at Lakeway (CC/R's Exhibit E, Figure 1) did not indicate the short-spacing to the Lakeway Docket 00-148 reference point. In and of itself, this might not seem too unusual were it not for the fact that the spacing study for Channel 245C1 at San Antonio (CC/R's Exhibit E, Figure 6) does explicitly show that the proposed San Antonio allotment is fully-spaced to the Lakeway Docket 00-148 reference point (while at the same time demonstrating full spacing to the new Lakeway Channel 247C1 reference point). If there is not deliberate misrepresentation here, there is clearly a lack of candor⁷, which in itself is disqualifying.⁸ Further investigation is clearly warranted, separate and apart from this proceeding.

25. CC/R have also violated the *ex parte* rule. CC/R asserted in its Fredericksburg proposal that MBPL's "application" for KHLB should be considered a Counterproposal in the Fredericksburg proceeding. As such, this was a direct attack on the grantability of that "application." Yet CC/R never served MBPL or its undersigned counsel of record with a copy of their Counterproposal (or of their Comments in Llano). Undersigned counsel only became aware

⁷"The core of lack of candor, then is omission, viz., failure to be completely forthcoming in the provision of information which could illuminate a decisional matter." Fox River, supra.

⁸RKO General, Inc. v. FCC, 50 R.R.2d 821 (D.C. Cir. 1981) (lack of candor sufficient to disqualify even despite lack of evidence to show intent to mislead).

of the filing of the Fredericksburg Counterproposal through other means, without benefit of service. This in itself taints CC/R Counterproposal and calls for further investigation.

F. CC/R's ATTEMPTS TO STRAITJACKET AUBURN ARE UNWARRANTED

26. CC/R make it sound like they had to file in Fredericksburg, because the Fredericksburg NPRM could have trumped CC/R's filing in Quanah. That is a gross distortion. The Fredericksburg NPRM specifically noted that the outcome in that proceeding would be expressly conditioned on the outcome in Quanah. Footnote 2 to the Fredericksburg NPRM said:

The proposed allotment of Channel 256C3 at Fredericksburg conflicts with a proposal to allot Channel 256A to Ingram, Texas, in MM Docket No. 00-148, which was dismissed by Report and Order. See Quanah, TX et al., 18 FCC Rcd 9495 (MB 2003) (MM Docket No. 00-148). An Application for Review of this decision was filed on June 21, 2004. We caution parties that this proposal will be granted subject to the outcome of MM Docket No. 00-148, since this proceeding is effective but not final. See Auburn, Alabama, et al., 18 FCC Rcd 10333 (MB 2003). This proposal also conflicts with a dismissed proposal for Channel 256A at Harper, Texas, which is pending on reconsideration. Thus, parties are also cautioned that any proposal for Fredericksburg will be granted subject to the outcome of the Harper proceeding.

(The Llano NPRM contained similar language.)

27. Thus, there really is no threat to the Quanah Counterproposal and the Fredericksburg NPRM in the sense that the Fredericksburg NPRM could have trumped the Quanah Counter. CC/R were *not* required, as a protective measure, to file a Counterproposal in Fredericksburg. Their Counter in Quanah stands or falls on its own merits, and is fully protected by the pending Application for Review of its dismissal.

28. What the Fredericksburg Counterproposal represents is an attempt to create a "heads-we-win, tails-you-lose" situation.

- Scenario A....

Review is granted in Quanah, CC/R's Quanah Counterproposal gets reinstated and adopted. The Fredericksburg and Llano dockets, and the KHLB site-change CP all blow up, due to the protective conditions attached to them. Bottom Line: CC/R win, everyone else loses.

- Scenario B....

The FCC denies Review in Quanah, but rules that CC/R's Fredericksburg Counterproposal (either as originally filed, or with the belatedly amended Llano 297A reference point) is acceptable. CC/R's Fredericksburg Counterproposal wins on § 307(b) grounds, the Llano docket implodes, and if the amended Llano ref. point is employed, the KHLB CP stands. Bottom line: CC/R wins, the F'burg and Llano petitioners and MBPL, the Goldthwaite Counterproponent, lose, but the KHLB CP survives. CC/R will not appeal further in Quanah, because they have obtained their desired result, albeit in the Fredericksburg docket....

- Scenario C...

The Commission does not act in Quanah, but does act in Fredericksburg, finding CC/R's F'burg Counter acceptable (either as originally filed, or with the belatedly amended Llano reference point). CC/R's Fredericksburg Counterproposal wins on § 307(b) grounds, the Llano docket implodes, and the Quanah proceeding is moot. Bottom line: CC/R wins, the Fredericksburg and Llano petitioners and the Goldthwaite Counterproponent (MBPL) lose, and the KHLB CP either bites the dust (if the original Llano reference point is used) or survives (if the amended reference point is used). CC/R will not appeal further in Quanah, because they have obtained their desired result, albeit in Fredericksburg.

The Commission simply cannot allow such fence-straddling, such gaming the system.

29. CC/R also displays a schizophrenic attitude toward the Auburn decision. On the one hand, they say that the Fredericksburg and Llano NPRMs and the grant of the KHLB CP are unwarranted extensions of the Auburn policy. On the other hand, at the same time, they invoke Auburn to support various aspects of their own Counterproposal.

30. At Para. 4 of their Fredericksburg Reply to MBPL's Opposition (and earlier, in their Supplement), CC/R say that, in Auburn, there was an effective but non-final change in the FM Table, but that in Fredericksburg, there has been no such change in the FM Table. So, Auburn really does not apply, and really doesn't support the issuance of the Fredericksburg NPRM. This is an unwarranted attempt to straightjacket Auburn to the specific facts of that case.

31. The Auburn decision was really two things wrapped in one document....

- first, Auburn is a ruling on the specific proposals advanced in that docket, and the adoption of specific, requested changes to the FM Table.
- second, Auburn represented a vehicle by which the Commission announced a change in policy... the abandonment of an old policy that the FCC deemed outdated, and the announcement of a new, substitute policy for handling not just the Auburn case itself, but also future cases. This part of the Auburn decision is a broad policy statement that transcends the specific facts in Auburn.

Here is what Auburn said.:

21. After a careful review of the record in this proceeding, we will grant the Joint Petitioners' reconsideration petition, reinstate, and grant the RSI and Cox Counterproposals subject to the outcome of MM Docket 98-112. [...]

Treatment of Non-final Rulemaking Actions

22. Generally, we have dismissed rulemaking proposals to amend the FM Table of Allotments that rely on effective but non-final actions in other rulemaking proceedings. We abandon this policy for several reasons. We agree with Joint Petitioners that Cut and Shoot is not applicable and that our reliance on this precedent in the R&O was error. Moreover, the former policy is inconsistent with the Commission decision to eliminate the former rule provision that provided that the filing of a petition for reconsideration would automatically stay the effectiveness of a channel change order. [...]

24. We further believe that accepting rulemaking proposals that rely upon actions in earlier rulemaking proceedings that are effective but not final will benefit the public. Broadcasters will be able to pursue changes to the FM Table of Allotments that could result in new or improved service to the public earlier than they presently can. However, we caution parties that any contingent rulemaking proposals would be granted subject to

the outcome of earlier allotment proceedings that are effective but not final. Based on the complexity and scope of MM Docket No. 98-112, we will not permit the Joint Petitioners to construct facilities made possible by the actions taken in that related proceeding until it becomes final. Moreover, the staff retains the authority to stay the effectiveness of allocations orders for good cause.

32. The language describing the changed policy... "accepting rulemaking proposals that rely upon actions in earlier rulemaking proceedings"... is a broader statement than "accepting rulemaking proposals that rely upon amendments to the FM Table in earlier rulemaking proceedings," which is what CC/R are trying to straitjacket Auburn into. "[A]ctions in earlier rulemaking proceedings," can be... decisions not to add any channels at all, e.g. ...

- rejections of uncontested but flawed rule-making petitions, or
- rejections of both flawed Counters and flawed initial petitions,
- rejections of flawed Counters where the initial Petitioner abandons its proposal (that's Quanah), or
- failure to adopt either an initial petition or a Counterproposal due to a failure to obtain Mexican or Canadian concurrence...

not just decisions to add channels, or delete channels, or add and delete channels, all of which involve changes to the FM Table.

III. CONCLUSION

33. The staff has before it in this Llano docket two proposals that are acceptable for rule making:

- the original proposal of Linda Crawford to allot Channel 297A to Llano, Texas as an additional local service; and
- MBPL's Counterproposal to instead allot the channel to Goldthwaite, Texas, as a first local service.

MBPL's Goldthwaite Counterproposal demonstrated that it must prevail over Ms. Crawford's Petition to allot yet another channel to Llano. Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982). If the staff deems it both necessary and appropriate to condition the Goldthwaite allotment upon the outcome in MM Docket No. 00-148, MBPL does not object to such conditioning. And as MBPL pointed out in its Counterproposal, adoption of MBPL's Counterproposal will eliminate the need for substantive consideration of the pending Application for Review in MM Docket 01-154.

34. For all of the above reasons, the staff should promptly issue a Report and Order in this (Llano) proceeding:

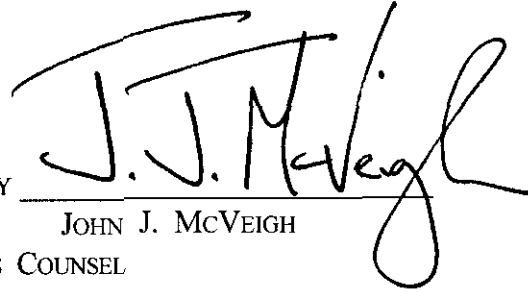
- implementing MBPL's Goldthwaite Counterproposal and allotting Channel 297A to the community of Goldthwaite, Texas;
- rejecting Ms. Crawford's Llano Petition;
- rejecting CC/R's request that this Docket be consolidated with the Fredericksburg proceeding (MB Docket No. 05-112); and
- terminating this (Llano) proceeding;

Separately, the FCC must fully investigate CC/R's behavior and take appropriate action.

Respectfully submitted,

MUNBILLA BROADCASTING PROPERTIES, LTD.

BY

A handwritten signature in black ink, appearing to read "J.J. McVeigh", written over a horizontal line.

JOHN J. McVEIGH

ITS COUNSEL

JOHN J. McVEIGH, ATTORNEY AT LAW
12101 BLUE PAPER TRAIL
COLUMBIA, MARYLAND 21044-2787

TELEPHONE: 301.596.1655
TELECOPIER: 301.596.1656

DATE: JULY 25, 2005

EXHIBIT A

JAMES B. HATFIELD, PE
BENJAMIN F. DAWSON III, PE
THOMAS M. ECKELS, PE
STEPHEN S. LOCKWOOD, PE
DAVID J. PINION, PE

PAUL W. LEONARD, PE
ERIK C. SWANSON, EIT
THOMAS S. GORTON, PE

HATFIELD & DAWSON
CONSULTING ELECTRICAL ENGINEERS
9500 GREENWOOD AVE. N.
SEATTLE, WASHINGTON 98103

TELEPHONE
(206) 783-9151
FACSIMILE
(206) 789-9834
E-MAIL
hatdaw@hatdaw.com

MAURY L. HATFIELD, PE
CONSULTANT
OAKHURST, NSW
AUSTRALIA

**Engineering Statement
In Support of
Munbilla Broadcasting Properties, Ltd.
Reply Comments in MB Docket No. 05-151
July 2005**

Background

This Engineering Statement has been prepared on behalf of Munbilla Broadcasting Properties, Ltd. ("MBPL"), in support of Reply Comments filed in MB Docket No. 05-151 ("the Llano Docket"). This proceeding was initiated by the filing of an original Petition for Rulemaking by Linda Crawford ("Crawford"), proposing the allotment of Channel 297A at Llano, Texas, as its fourth FM commercial broadcast transmission service.

On March 25, 2005, the Commission released a Notice of Proposed Rulemaking in MB Docket No. 05-151, soliciting comments on and counterproposals to Crawford's proposal. On May 11, 2005, MBPL filed a timely counterproposal proposing the allotment of Channel 297A at Goldthwaite, Texas, as that community's first local broadcast service. The MBPL counterproposal was placed on Public Notice on July 8, 2005.

On May 9, 2005, a counterproposal was filed in MB Docket No. 05-112 ("the Fredericksburg Docket") by Capstar TX Limited Partnership, CCB Texas License, L.P., Clear Channel Broadcasting Licenses, Inc., and Rawhide Radio, LLC (together, "CC/R").

The CC/R counterproposal in the Fredericksburg Docket conflicts with MBPL's counterproposal in the Llano Docket, and with the lead proposal in the Llano Docket. The purpose of this Engineering Statement is to detail certain technical defects in the CC/R counterproposal.

Channel 297A at Llano, Texas

CC/R have proposed the substitution of Channel 297A for Channel 242A at Llano for use by station KQBT, at coordinates of N30-43-40 x W98-36-43. As is detailed in the attached spacing study, this proposal violates the §73.207 spacing requirement to the prior-filed and granted construction permit BPH-20030902ADU for minor modification of MBPL's station KHLB on Channel 295A at Burnet, Texas.

Specifically, §73.207 requires a separation of 31 kilometers between two second-adjacent-channel Class A stations or assignments, whereas CC/R have proposed a separation of only 28 kilometers. CC/R have failed to protect a prior-filed minor modification application. Indeed, the KHLB application had been filed 20 months prior to the filing of the CC/R counterproposal, and had been granted on June 29, 2004 (10 months prior to the filing of the CC/R counterproposal). Nevertheless, CC/R erroneously refer in their counterproposal to BPH-20030902ADU as a pending application, relying on a nearly one-year-old engineering study for their filing in the Fredericksburg Docket.¹

In a later Supplement, CC/R belatedly offered alternate allotment coordinates for Channel 297A at Llano, in order to clear the KHLB construction permit. It is well established, however, that a counterproposal must be technically complete on the day it is filed. It is clear that CC/R were aware of BPH-20030902ADU when they filed their counterproposal in the Fredericksburg Docket, regardless of any confusion CC/R had over whether it was a pending application or a granted construction permit. CC/R could have offered their technically-acceptable, fully-spaced allotment coordinates for Channel 297A at Llano on the day the counterproposal was filed. Therefore, the Llano 297A element of their counterproposal in the Fredericksburg Docket is in violation of §73.207 of the Commission's Rules. This impermissible short-spacing renders the entire Counterproposal fatally defective and wholly unacceptable for rule making.

¹ Curiously, however, at paragraph 47 of their counterproposal, CC/R explicitly acknowledge the grant of a construction permit BNPH-20050103ACN on Channel 243A at Ingram, Texas. The Ingram construction permit was issued on March 10, 2005, eight months after grant of the KHLB construction permit. CC/R have managed to detect the grant of the Ingram construction permit, but the grant of the KHLB construction permit has ostensibly escaped their notice.

It would not be possible for MBPL to modify the authorized operation of KHLB at the site specified in BPH-20030902ADU, for example by reducing power or modifying the directional envelope pattern, to operate as a §73.215 short-spaced station with respect to a Channel 297A allotment at Llano as proposed in CC/R's Fredericksburg counterproposal as originally filed. This is because the maximum Class A 60 dBu contour from a Class A allotment at Llano N30-43-40 x W98-36-43 encompasses the KHLB transmitter site authorized in BPH-20030902ADU. This relationship is depicted on the attached map exhibit.

Channel 254A at Ingram, Texas

CC/R have proposed the substitution of Channel 254A for Channel 243A at Ingram, at coordinates of N30-04-30 x W99-14-06. As is detailed in the attached spacing study, this proposal violates the §73.207 spacing requirement to the prior-filed and granted construction permit BPH-20010102AAO for minor modification of station KLMO-FM on Channel 255C1 at Dilley, Texas.

Specifically, §73.207 requires a separation of 133 kilometers between first-adjacent-channel Class A and Class C1 stations or assignments, whereas CC/R has proposed a separation of only 126 kilometers.

CC/R attempt to explain away this rule violation by arguing that the KLMO-FM construction permit application provided protection under §73.215² to the Ingram Channel 254A allotment proposal which was included in CC/R's counterproposal in MM Docket No. 00-148 (*Quanah, et al*). CC/R's counterproposal in *Quanah* was subsequently denied by the Commission both in the initial *Quanah* decision and upon reconsideration. Nevertheless, CC/R would have it that the mere existence of their earlier and twice-denied Ingram channel substitution proposal is enough to excuse the violation of §73.207 to KLMO-FM in their Fredericksburg Docket counterproposal.

² The KLMO-FM construction permit was authorized under §73.215 with respect to three existing FM stations. The power restrictions proposed by KLMO-FM to prevent prohibited contour overlap with those three stations also serendipitously provide contour protection to Channel 254A at Ingram.

Furthermore, CC/R's Ingram channel substitution impacts the construction permit BNPH-20050103ACN for a new FM station on Channel 243A at Ingram. That construction permit was granted on March 10, 2005, two months prior to CC/R's filing in the Fredericksburg Docket. CC/R proposes to substitute Channel 254A at Ingram at a different location from the transmitter site authorized for Channel 243A at Ingram in BNPH-20050103ACN. While it is true that the Ingram CP was conditioned with respect to the final outcome of MM Docket No. 00-148, it bears no such condition relating to other subsequent rulemaking proceedings. Neither have CC/R included a statement from the Ingram permittee, Radioactive, LLC, agreeing to the relocation of its transmitter site in the context of the Fredericksburg Docket.

It is well established that a counterproposal must be technically complete on the day it is filed. It is clear that CC/R were aware of both the KLMO-FM CP and the Ingram 243A CP when they filed their counterproposal in the Fredericksburg Docket. CC/R could and should have proposed technically acceptable allotment coordinates (fully-spaced to the KLMO-FM CP) for Channel 254A at Ingram on the day the counterproposal was filed, and should have included a statement from Radioactive agreeing to the transmitter site change for Radioactive's Ingram CP. CC/R did neither. Therefore, the Ingram 254A element of CC/R's counterproposal in the Fredericksburg Docket is in violation of §73.207 of the Commission's Rules. This impermissible short-spacing renders the entire Counterproposal fatally defective and wholly unacceptable for rule making.

Channel 249C1 at Converse, Texas

CC/R have proposed the reallocation of Channel 249C1 from McQueeney to Converse, for use by KLTO-FM, at coordinates of N29-25-07 x W98-29-02. As is detailed in the attached spacing study, this proposal violates the §73.207 spacing requirement to the prior-filed rulemaking proposal to allot Channel 250A at Batesville, Texas, in MM Docket No. 01-130.

Specifically, §73.207 requires a separation of 133 kilometers between first-adjacent-channel Class A and Class C1 stations or assignments, whereas CC/R has proposed a separation of only 109 kilometers.

CC/R state that the Batesville proposal, along with separate allotment proposals for Channel 249C3 at Mason and Channel 250A at Tilden, should not have been accepted for filing due to conflicts with CC/R's prior-filed counterproposal in MM Docket No. 00-148. At the time the Batesville, Mason, and Tilden allotment proposals were originally filed, the Commission had not yet issued a Report & Order in MM Docket No. 00-148. As CC/R correctly state, the Mason proposal, despite having been the subject of a Notice of Proposed Rulemaking, was dismissed by the Commission on June 14, 2002.

CC/R incorrectly cite to a dismissal of a proposal for Channel 245C3 at Tilden in MM Docket No. 01-153. The Tilden Channel 250A proposal was advanced by an original Petition for Rulemaking filed by Katherine Pyeatt ("Pyeatt") on July 18, 2003, and assigned rulemaking number RM-11080. Our search of the Commission's Electronic Comments Filing System has been unable to turn up any other document correctly associated with RM-11080, but it appears that the Pyeatt proposal was dismissed at some point, either at Pyeatt's request or by the Commission's independent action, since the several elements of that proposal no longer appear in the FM database. We have been unable to determine whether this dismissal – or request for dismissal – took place before or after CC/R's counterproposal filing in the Fredericksburg Docket.

By contrast, the Batesville proposal was released on a Notice of Proposed Rulemaking on June 22, 2001, with a Comment Date of August 13, 2001, and has not been dismissed. As of this point in time, there is no record of a Report & Order having been released in the Batesville proceeding. Therefore, whatever its ultimate fate may be, the Batesville proposal was cut-off and entitled to full protection long before and as of the date of CC/R's counterproposal filing in the Fredericksburg Docket. Indeed, CC/R acknowledge in their counterproposal that the Batesville proposal has yet to be dismissed, but does so in the portion of their Footnote 1 which is curiously separated by two pages from the main body of their text (paragraph 55) which initially discusses Batesville.

As noted earlier, it is well established that a counterproposal must be technically complete on the day it is filed. It is clear that CC/R were aware of the Batesville proceeding when they filed their counterproposal in the Fredericksburg Docket. CC/R could and should have proposed technically acceptable alternate allotment coordinates for Channel 249C1 at Converse on the day the

counterproposal was filed. Therefore, the Converse 249C1 element of their counterproposal in the Fredericksburg Docket is in violation of §73.207 of the Commission's Rules. This impermissible short-spacing renders the entire Counterproposal fatally defective and wholly unacceptable for rule making.

Comparison of CC/R's Docket 00-148 and Docket 05-112 Counterproposals

CC/R have repeatedly represented that their counterproposal in the Fredericksburg Docket merely duplicates their earlier filing in MM Docket No. 00-148. CC/R have explicitly stated that:

"This counterproposal is the same as the Joint Parties' pending proposal in MM Docket No. 00-148, which is now on Application for Review before the Commission." (CC/R Counterproposal in Docket 05-112, filed May 9, 2005, at paragraph 1 of the Summary)

"The Joint Parties are resubmitting their pending proposal as a counterproposal in this proceeding. . ." (CC/R Counterproposal in Docket 05-112, filed May 9, 2005, at paragraph 3)

"The Joint Parties' counterproposal in Docket 05-112 is the same counterproposal as their counterproposal in Docket 00-148." (CC/R Supplement in Docket 05-151, filed June 13, 2005, at paragraph 3)

This is simply not the case. The following two-page table presents a side-by-side comparison of the individual elements of the CC/R counterproposals in the two proceedings.

Comparison of CC/R Counterproposals in Dockets 00-148 and 05-112

(continued on following page)

CC/R Counterproposal in Docket 00-148 (Quanah)	CC/R Counterproposal in Docket 05-112 (Fredericksburg)
KLAK Reallot 248C2 from Durant, OK to Keller, TX N33-26-13 x W97-29-05	(no matching proposal)
KRZB Substitute 230C1 for 248C1 at Archer City, TX N33-36-58 x W98-51-42	(no matching proposal)
KSEY Substitute 222C2 for 230C2 at Seymour, TX N33-35-59 x W99-18-42	(no matching proposal)
Vacant Substitute 298C2 for 222C2 at Seymour, TX N33-34-49 x W99-18-01	(no matching proposal)
Vacant Substitute 257A for 297A at Knox City, TX N33-25-03 x W99-40-16	(no matching proposal)
Vacant Substitute 296C3 for 298C3 at Wellington, TX N34-49-13 x W100-14-29	(no matching proposal)
KZCD Substitute 232C2 for 231C2 at Lawton, OK N34-38-13 x W98-31-45	(no matching proposal)
KXOO Substitute 233C3 for 232C3 at Elk City, OK N35-27-01 x W99-27-36	(no matching proposal)
Vacant Substitute 255C3 for 233C3 at Quanah, TX N34-17-52 x W99-44-23	(no matching proposal)
KGOK Reallot from 249C3 Healdton to 249A Purcell, OK N34-56-11 x W97-21-12	(no matching proposal)
KKAJ Reallot from 239C1 Ardmore to 239C1 Healdton N34-09-42 x W97-09-11	(no matching proposal)

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KWTX Option 1: Reallot from 248C Waco to 247C1 Lakeway, TX N30-18-27 x W97-46-46 Subsequently corrected to N30-18-29 x W97-46-48 Option 2: Substitute 225C2 for 248C at Waco, TX N31-30-51 x W97-11-43		KWTX Reallot from 248C Waco to 247C1 Lakeway, TX N30-18-51 x W97-51-58 These coordinates are 8.3 kilometers from the Lakeway 247C1 coordinates specified in Docket 00-148.
KLRK Option 2: Substitute 248C2 for 225C2 at Marlin, TX N31-09-27 x W97-09-22		(no matching proposal)
KAJA Substitute 245C1 for 247C at San Antonio, TX N29-30-01 x W98-46-41		KAJA Substitute 245C1 for 247C at San Antonio, TX N29-30-01 x W98-46-41
KHFI Reallot from 244C1 Georgetown to 243C2 Lago Vista, TX N30-27-18 x W97-53-03		KHFI Reallot from 244C1 Georgetown to 243C2 Lago Vista, TX N30-27-18 x W97-53-03
KBAE Substitute 297A for 242A at Llano, TX N30-43-40 x W98-36-43		KBAE Substitute 297A for 242A at Llano, TX N30-43-40 x W98-36-43
KLFX Substitute 249A for 297A at Nolanville, TX N31-05-38 x W97-34-51		KLFX Substitute 249A for 297A at Nolanville, TX N31-05-38 x W97-34-51
KCVQ Reallot from 249C1 McQueeney to 249C1 Converse, TX N29-25-07 x W98-29-02		KCVQ Reallot from 249C1 McQueeney to 249C1 Converse, TX N29-25-07 x W98-29-02
Vacant Substitute 256A for 243A at Ingram, TX N30-04-30 x W99-14-06		Vacant Substitute 256A for 243A at Ingram, TX N30-04-30 x W99-14-06
Vacant Add 232A at Flatonia, TX N29-37-00 x W97-12-44		(no matching proposal)

The first, most obvious, and inescapable conclusion to be drawn from this table is that huge swaths of their Docket 00-148 have been abandoned in their Docket 05-112 filing.

Even more significant, however, is the forest hidden among the trees. Among the limited number of elements of the Docket 00-148 counterproposal that CC/R have carried over into Docket 05-151, CC/R have -- without any explanation -- abandoned their originally-proposed allotment site coordinates for Channel 247C1 at Lakeway, and now offer a wholly new set of coordinates.

The original Lakeway Channel 247C1 allotment coordinates specified in CC/R's Docket 00-148 counterproposal were N30-18-27 x W97-46-46. These coordinates were later modified to N30-18-29 x W97-46-48, in response to Commission concern that the original coordinates were located in the Colorado River. In their Docket 05-151 counterproposal, CC/R have forsaken both sets of earlier coordinates, and have specified a completely new set of coordinates for Channel 247C1 at Lakeway: N30-18-51 x W97-51-58. This is not merely a slight adjustment of the prior coordinates. These new coordinates are 8.3 kilometers -- fully 5 miles -- distant from the Lakeway 247C1 coordinates specified in Docket 00-148.

The attached map exhibit depicts the physical relationship between the two allotment sites.

CC/R make no attempt in their counterproposal to either explain or even acknowledge their deliberate alteration of the Lakeway allotment site coordinates. Yet, at the same time, CC/R repeatedly maintain the pretense that their recent filing is "the same" as their counterproposal in Docket 00-148. No mention is made of the allotment site change in the text of either the legal or technical portion of the counterproposal.

Notably, the spacing study included for Channel 247C1 at Lakeway (CC/R's Exhibit E, Figure 1) does not indicate the short-spacing to the Lakeway Channel 247C1 allotment site from Docket 00-148. This itself might not seem too unusual were it not for the fact that their spacing study for Channel 245C1 at San Antonio (CC/R's Exhibit E, Figure 6) does explicitly demonstrate that the proposed San Antonio allotment is fully-spaced to the Lakeway Channel 247C1 allotment site from

Docket 00-148 (while at the same time demonstrating full spacing to the new Lakeway Channel 247C1 allotment site).

The allotment of Channel 247C1 at N30-18-51 x W97-51-58 (as proposed in Docket 05-112) cannot be said to be "the same" as the allotment of Channel 247C1 at N30-18-29 x W97-46-48 (as proposed in Docket 00-148). The new allotment site coordinates for Lakeway have a markedly different preclusive effect than do the coordinates specified in Docket 00-148. Depending on the class and channel relationship to another party's desired station or allotment change, the additional preclusive effect can be huge. For example, CC/R's attempt to squat on two separate allotment sites for Channel 247C1 adds nearly 4,500 square kilometers of precluded area with respect to cochannel Class C stations.³

³ This is the effect which the 8.3 kilometer shift has over a 270 kilometer radius, the §73.207 spacing requirement between cochannel Class C1 and Class C stations.

Statement of Engineer

This Engineering Statement, supporting Reply Comments in MB Docket No. 05-151, has been prepared Erik C. Swanson under my direct supervision. All representations herein are true to the best of my knowledge. I am an experienced radio engineer whose qualifications are a matter of record with the Federal Communications Commission. I am a partner in the firm of Hatfield & Dawson Consulting Engineers and am Registered as a Professional Engineer in the States of Washington and California.

Signed this 22nd day of July, 2005



Benjamin F. Dawson III, P.E.

A handwritten signature in cursive script, reading "Erik C. Swanson".

Erik C. Swanson

Hatfield & Dawson Consulting Engineers

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SEARCH PARAMETERS FM Database Date: 050713

Channel: 297A 107.3 MHz Page 1
 Latitude: 30 43 40
 Longitude: 98 36 43
 Safety Zone: 32 km
 Job Title: CC/R LLANO 297A

Call Status	City St	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-True	Dist (km)	Req (km)
DEL	BURNET TX RM-rfs22*		295A 106.9	0.000 0.0	30-44-12 098-17-36	88.1	30.53 -0.47	31 SHORT
KHLBaux CP	BURNET TX BXPB-040708ACO		295A 106.9	0.900 163.0	30-44-29 098-19-05	86.8	28.19 0.00	0 AUX
KHLB LIC	BURNET TX BLH-970728KA		295A 106.9	4.700 DA 109.0	30-44-12 098-17-36	88.1 SS	30.53 -0.47	31 SHORT
KHLB CP	BURNET TX BPH-030902ADU		295A 106.9	2.100 DA 171.0	30-44-29 098-19-05	86.8 SS	28.19 -2.81	31 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 25 KM								
KGSR LIC	BASTROP TX BLH-971006KG		296C2 107.1	39.000 152.0	30-07-18 097-34-45	124.0 SS	119.83 13.83	106 CLEAR
K296FQ CP	FREDERICKSBURG TX BNFFT-030829ASS		296D 107.1	0.050 220.0	31-15-59 098-53-34	336.0	65.46 0.00	0 TRANS
ADD	GOLDTHWAITE TX RM-rfs32*		297A 107.3	0.000 0.0	31-30-00 098-42-23	354.0	86.09 -28.91	115 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
ADD	GOLDTHWAITE TX RM-10163		297A 107.3	0.000 0.0	31-28-29 098-43-11	353.0	83.45 -31.55	115 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
VAC	JUNCTION TX RM-10149		297A 107.3	0.000 0.0	30-27-27 099-46-07	255.1	114.91 -0.09	115 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
DEL	JUNCTION TX RM-11222		297A 107.3	0.000 0.0	30-27-27 099-46-07	255.1	114.91 -0.09	115 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
ADD	JUNCTION TX RM-11222		297A 107.3	0.000 0.0	30-24-15 099-51-45	253.6	125.22 10.22	115 CLEAR
ADD	LLANO TX RM-11222		297A 107.3	0.000 0.0	30-46-00 098-44-15	289.9	12.77 -102.23	115 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								

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SEARCH PARAMETERS

FM Database Date: 050713

Channel: 297A 107.3 MHz
 Latitude: 30 43 40
 Longitude: 98 36 43
 Safety Zone: 32 km
 Job Title: CC/R LLANO 297A

Page 2

Call Status	City St	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-True	Dist (km)	Req (km)
	LLANO		297A	0.000	30-43-40	0.0	0.00	115
ADD	TX RM-bh-6*		107.3	0.0	098-36-43		-115.00	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
	LLANO		297A	0.000	30-43-40	0.0	0.00	115
ADD	TX RM-011185a		107.3	0.0	098-36-43		-115.00	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
	NOLANVILLE		297A	0.000	31-05-38	67.3	106.60	115
DEL	TX RM-011185a		107.3	0.0	097-34-51		-8.40	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
	NOLANVILLE		297A	0.000	31-05-38	67.3	106.60	115
DEL	TX RM-bh-4*		107.3	0.0	097-34-51		-8.40	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
KLFX	NOLANVILLE		297A	1.950	31-05-23	67.1	104.85	115
LIC	TX BLH-941117KC		107.3	160.0	097-35-55	SS	-10.15	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
KXTNaux	SAN ANTONIO		298C0	100.000	29-25-23	173.1	145.68	0
LIC	TX BMLH-841107KP		107.5	87.0	098-25-50		0.00	AUX
KXTN-FM	SAN ANTONIO		298C0	100.000	29-16-29	168.2	164.52	152
LIC	TX BLH-840705CB		107.5	448.0	098-15-52		12.52	CLEAR
	RICHLAND SPRINGS		299A	0.000	31-09-42	320.3	62.78	31
ADD	TX RM-11015		107.7	0.0	099-02-03		31.78	CLEAR
KFAN-FM	JOHNSON CITY		300C3	8.700	30-11-49	182.5	58.90	42
LIC	TX BLH-031104ACG		107.9	168.0	098-38-19		16.90	CLEAR

44444 END OF FM SPACING STUDY FOR CHANNEL 297 44444

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SEARCH PARAMETERS FM Database Date: 050713

Channel: 256A 99.1 MHz Page 1
 Latitude: 30 4 30
 Longitude: 99 14 6
 Safety Zone: 50 km
 Job Title: CC/R INGRAM 256A

Call Status	City St	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-True	Dist (km)	Req (km)
KBBTaux APP	SCHERTZ TX	BKPH-031125AMV	253C1 98.5	35.000 102.0	29-25-23 098-25-50	132.8	106.19 0.00	0 AUX
KBBT LIC	SCHERTZ TX	BLH-010122AIJ	253C1 98.5	98.000 302.0	29-31-25 098-43-25	141.0	78.61 3.61	75 CLOSE
KBBTaux APP	SCHERTZ TX	BKPH-050426ABG	253C1 98.5	35.000 102.0	29-25-23 098-25-50	132.8	106.19 0.00	0 AUX
KLMO-FM LIC	DILLEY TX	BLH-001220AAR	255C1 98.9	62.000 264.0	28-34-00 099-15-00	180.5	167.19 34.19	133 CLEAR
KLMO-FM DILLEY CP	TX BPH-010102AAO		255C1 98.9	92.000 220.0	28-56-34 099-16-47	182.0 SS	125.57 -7.43	133 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 111 KM								
KHHLaux LIC	LEANDER TX	BKLH-040901ACP	255C2 98.9	25.000 157.0	30-23-26 097-50-13	75.0	139.05 0.00	0 AUX
KHHL LIC	LEANDER TX	BLH-040719ADW	255C2 98.9	25.000 164.0	30-23-26 097-50-13	75.0 SS	139.05 33.05	106 CLEAR
KAYG LIC	CAMP WOOD TX	BLH-000919ABY	256A 99.1	0.965 69.0	29-42-53 100-00-56	242.2	85.32 -29.68	115 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
ADD	FREDERICKSBURG TX	RM-11185	256C3 99.1	0.000 0.0	30-13-21 099-02-15	49.1	25.09 -116.91	142 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 119 KM								
ADD	HARPER TX	RM-DD-12	256A 99.1	0.000 0.0	30-17-14 099-16-53	349.3	23.95 -91.05	115 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
ADD	INGRAM TX	RM-011185a	256A 99.1	0.000 0.0	30-04-30 099-14-06	0.0	0.00 -115.00	115 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								
ADD	INGRAM TX	RM-bh-11	256A 99.1	0.000 0.0	30-04-30 099-14-06	0.0	0.00 -115.00	115 SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 92 KM								

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SEARCH PARAMETERS

FM Database Date: 050713

Channel: 256A 99.1 MHz
 Latitude: 30 4 30
 Longitude: 99 14 6
 Safety Zone: 50 km
 Job Title: CC/R INGRAM 256A

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Call Status	City St	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-True	Dist (km)	Req (km)
NEW-T	SAN MARCOS		256D	0.050	29-57-15	95.6	130.95	0
APP	TX	BNPFT-030317AFJ	99.1	68.0	097-53-05		0.00	TRANS
NEW-T	SEGUIN		256D	0.250	29-36-41	112.7	132.17	0
APP	TX	BNPFT-030314BTK	99.1	112.0	097-58-30		0.00	TRANS
KPSM	BROWNWOOD		257C1	100.000	31-43-10	6.5	183.51	133
LIC	TX	BLH-021203ACT	99.3	136.0	099-00-57	SS	50.51	CLEAR
K257EJ	KERRVILLE		257D	0.099	30-02-37	107.6	11.52	0
CP	TX	BNPFT-030827AIN	99.3	151.0	099-07-16		0.00	TRANS
VAC	LEAKEY		257A	0.000	29-44-41	239.5	72.07	72
	TX	RM-10659	99.3	0.0	099-52-40		0.07	CLOSE
K258BL	FREDERICKSBURG		258D	0.050	30-15-59	57.0	39.20	0
CP	TX	BNPFT-030829ASP	99.5	122.0	098-53-34		0.00	TRANS
KISS-FM	SAN ANTONIO		258C	100.000	29-16-29	133.3	129.21	95
LIC	TX	BLH-870928KB	99.5	339.0	098-15-52		34.21	CLEAR
KISS-FM	SAN ANTONIO		258C	100.000	29-16-29	133.3	129.21	95
CP	TX	BNH-031107AEH	99.5	453.0	098-15-52		34.21	CLEAR
VAC	MASON		259A	0.000	30-45-00	0.1	74.83	31
	TX	RM-10395	99.7	0.0	099-14-00		43.83	CLEAR
NEW	MASON		259A	0.000	30-42-03	0.2	69.38	31
APP	TX	BSFH-040804AGP	99.7	0.0	099-13-59		38.38	CLEAR

44444 END OF FM SPACING STUDY FOR CHANNEL 256 44444

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SEARCH PARAMETERS Channel: 249C1 97.7 MHz

Latitude: 29 25 7
Longitude: 98 29 2
Safety Zone: 32 km
Job Title: CC/R CONVERSE 249C1

Call City Status St FCC File No. Channel ERP(kW) Latitude Bearing Dist Reg

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SAN ANTONIO 247C 0.000 29-31-25 098-43-25 296.8 26.00 105 DEL TX FM-10230 ABSOLUTE MINIMUM 73.215 SPACING = 99 KM

SAN ANTONIO 247C 0.000 29-31-25 098-43-25 296.8 26.00 94 ADD TX FM-10230 ABSOLUTE MINIMUM 73.215 SPACING = 88 KM

KAJAUX SAN ANTONIO 247C 35.000 29-38-00 098-37-50 329.3 27.72 0 AUX TX BXLH-990830AAQ

SAN ANTONIO 247C 0.000 29-30-01 098-46-41 287.8 29.94 105 DEL TX FM-bh-5* ABSOLUTE MINIMUM 73.215 SPACING = 99 KM

SAN ANTONIO 247C 100.000 29-31-25 098-43-25 296.8 26.00 105 LIC TX BMLH-010412AAK ABSOLUTE MINIMUM 73.215 SPACING = 99 KM

SAN CARLOS 248C 0.000 29-01-45 100-54-00 260.1 238.85 209 CI -

KINGSVILLE 248C1 100.000 DA 27-44-28 097-36-08 155.0 204.94 177 LIC TX BLH-890130KC

WACO 248C 0.000 31-20-15 097-18-37 27.5 240.78 209 DEL TX RM-01185a

WACO 248C 0.000 30-18-27 097-46-46 34.3 119.75 209 DEL TX RM-bh-20 ABSOLUTE MINIMUM 73.215 SPACING = 188 KM

KWIX-FM WACO 248C 100.000 31-20-15 097-18-37 27.5 240.78 209 LIC TX BLH-981125KE

KWIX-FM WACO 248C 100.000 31-20-16 097-18-36 27.5 240.82 209 CP MOD TX BNPB-981125IC

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SEARCH PARAMETERS

FM Database Date: 050713

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Channel: 249C1 97.7 MHz
 Latitude: 29 25 7
 Longitude: 98 29 2
 Safety Zone: 32 km
 Job Title: CC/R CONVERSE 249C1

Call Status	City St	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-True	Dist (km)	Req (km)
	CONVERSE		249C1	0.000	29-25-07	0.0	0.00	245
ADD	TX RM-bh-24		97.7	0.0	098-29-02		-245.00	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 224 KM								
	CONVERSE		249C1	0.000	29-25-07	0.0	0.00	245
ADD	TX RM-011185a		97.7	0.0	098-29-02		-245.00	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 224 KM								
	CONVERSE		249C1	0.000	29-25-07	0.0	0.00	245
ADD	TX RM-bh-19		97.7	0.0	098-29-02		-245.00	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 224 KM								
NEW-T	COTULLA		249D	0.050	28-24-50	213.9	134.14	0
APP	TX BNPFT-030317BBV		97.7	95.0	099-15-03		0.00	TRANS
NEW-T	COTULLA		249D	0.140	28-32-06	215.9	120.90	0
APP	TX BNPFT-030317MEJ		97.7	132.0	099-12-41		0.00	TRANS
KLTO-FM CUERO			249C3	25.000	29-04-25	107.3	126.92	211
LIC	TX BLH-960111KC		97.7	92.0	097-14-20	SS	-84.08	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 200 KM								
	MASON		249C3	0.000	30-43-39	334.9	160.55	211
ADD	TX RM-10143		97.7	0.0	099-11-49		-50.45	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 200 KM								
	MCQUEENEY		249C1	0.000	29-25-07	0.0	0.00	245
DEL	TX RM-bh-19		97.7	0.0	098-29-02		-245.00	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 224 KM								
	MCQUEENEY		249C1	0.000	29-31-46	45.7	17.64	245
DEL	TX RM-011185a		97.7	0.0	098-21-12		-227.36	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 224 KM								
	MCQUEENEY		249C1	0.000	29-21-24	94.8	79.95	245
RSV	TX RM-9866		97.7	0.0	097-39-48		-165.05	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 224 KM								
KLTO-FM MCQUEENEY			249C1	100.000	29-20-45	95.5	81.78	245
CP	TX BPH-010124AJI		97.7	299.0	097-38-44		-163.22	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 224 KM								

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SEARCH PARAMETERS

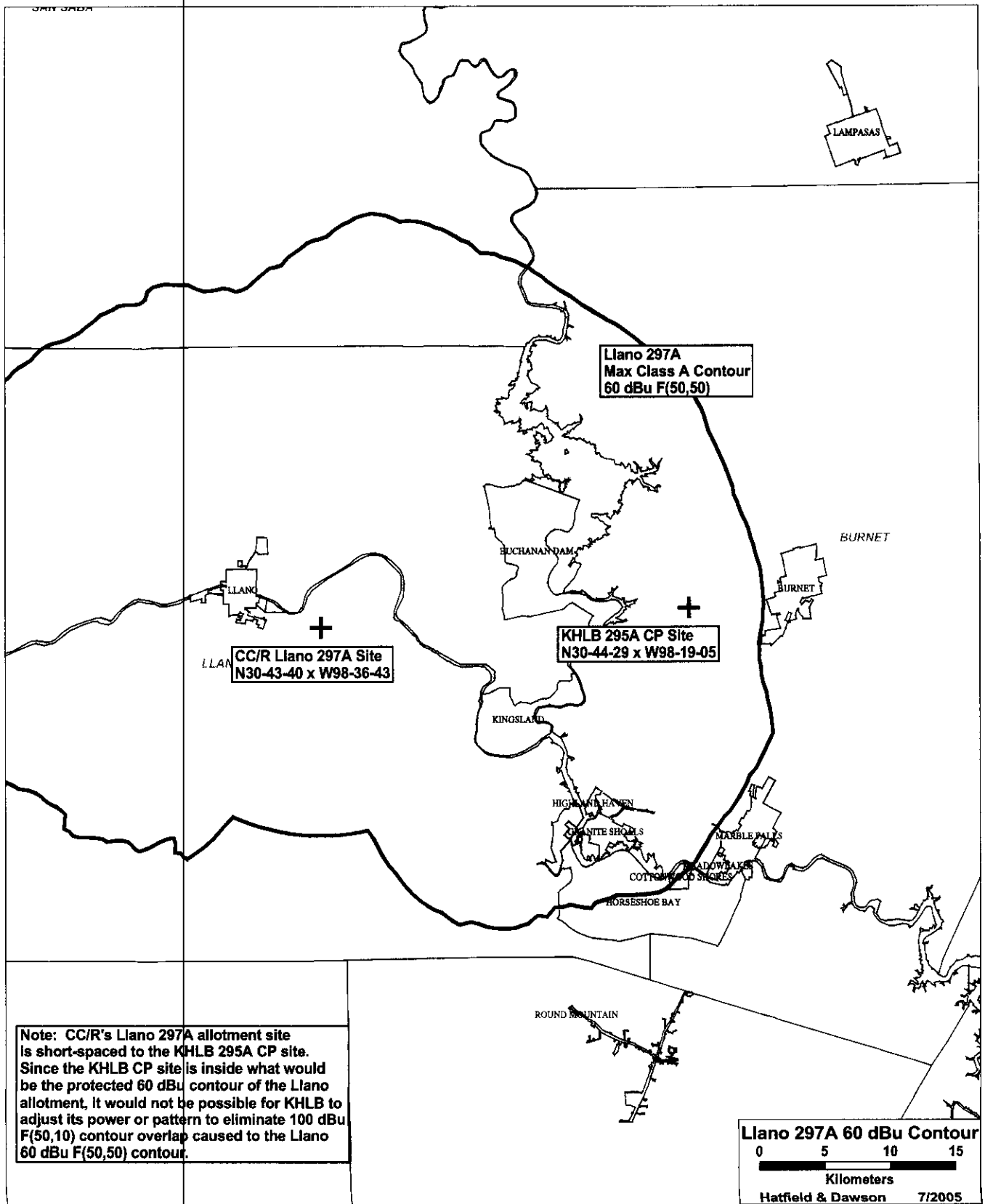
FM Database Date: 050713

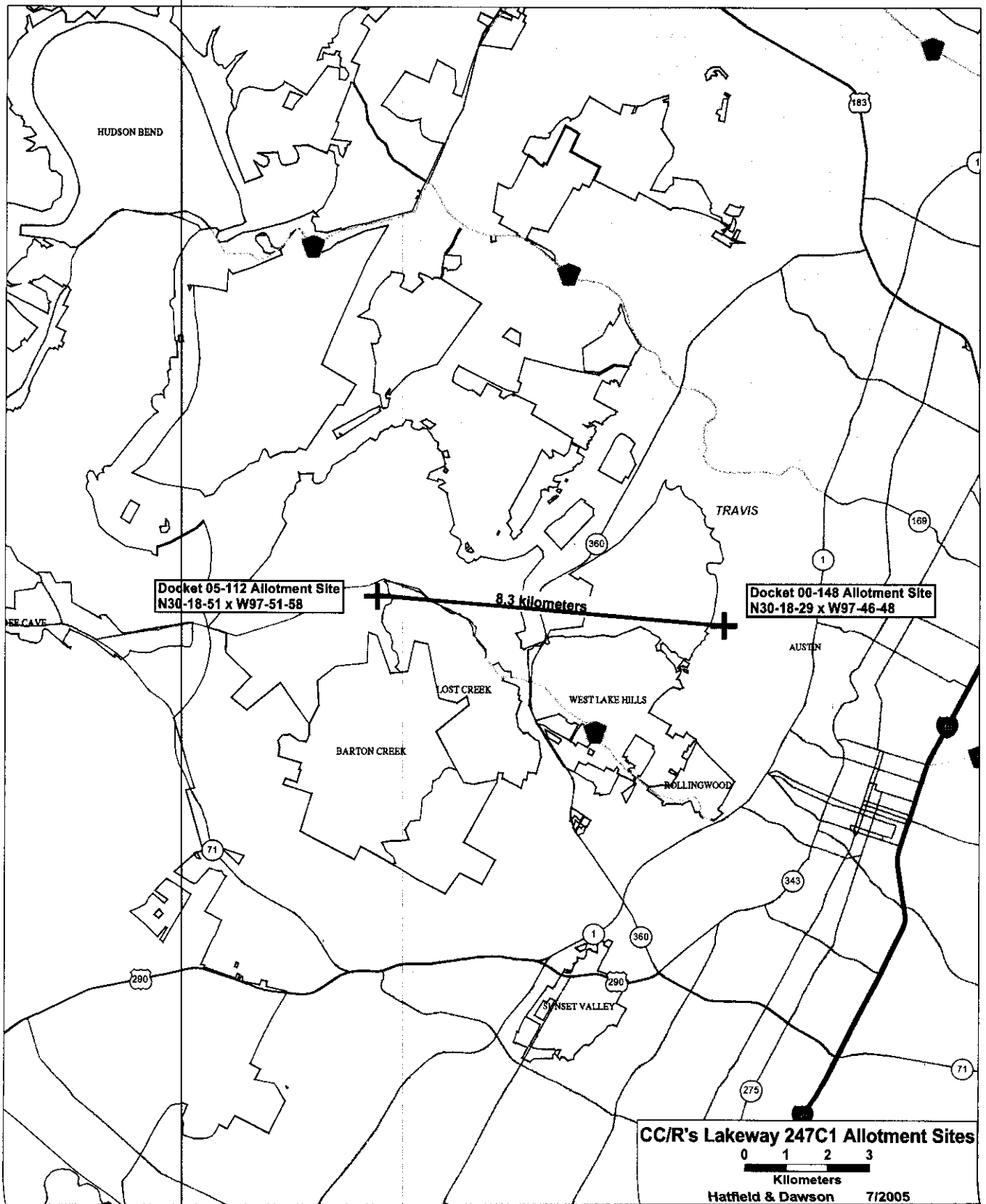
Channel: 249C1 97.7 MHz
 Latitude: 29 25 7
 Longitude: 98 29 2
 Safety Zone: 32 km
 Job Title: CC/R CONVERSE 249C1

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Call Status	City St	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-True	Dist (km)	Req (km)
	NOLANVILLE		249A	0.000	31-05-38	24.7	205.04	200
ADD	TX RM-011185a		97.7	0.0	097-34-51		5.04	CLOSE
	NOLANVILLE		249A	0.000	31-05-38	24.7	205.04	200
ADD	TX RM-bh-4*		97.7	0.0	097-34-51		5.04	CLOSE
	BATESVILLE		250A	0.000	29-01-34	246.7	109.41	133
ADD	TX RM-10147		97.9	0.0	099-30-59		-23.59	SHORT
ABSOLUTE MINIMUM 73.215 SPACING = 111 KM								
	GEORGE WEST		250A	0.000	28-14-07	166.5	134.86	133
VAC	TX RM-10685		97.9	0.0	098-09-43		1.86	CLOSE
KVETaux	AUSTIN		251C1	55.000	30-13-24	35.1	109.46	0
LIC	TX EXMLH-030610ADV		98.1	209.0	097-49-39		0.00	AUX
NEW-T	KERRVILLE		251D	0.170	30-03-51	318.8	95.51	0
APP	TX BNPFT-030314AJB		98.1	134.0	099-08-16		0.00	TRANS
NEW-T	KERRVILLE		251D	0.050	30-05-04	317.4	100.78	0
APP	TX BNPFT-030317BVC		98.1	136.0	099-11-36		0.00	TRANS

44444 END OF FM SPACING STUDY FOR CHANNEL 249 44444





CERTIFICATE OF SERVICE

I hereby certify that I have, this Twenty-Fifth day of July, 2005, sent copies of the foregoing **REPLY COMMENTS** by first-class United States mail, postage prepaid, to:

Linda Crawford
3500 Maple Avenue, Suite 1320
Dallas, Texas 75219

Katherine Pyeatt
6655 Aintree Circle
Dallas, Texas 75214

Gene A. Bechtel, Esq.
Law Office of Gene Bechtel
1050 Seventeenth Street, N.W., Suite 600
Washington, D.C. 20036

Mark N. Lipp, Esq.
J. Thomas Nolan, Esq.
Vinson & Elkins, LLP
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Gregory L. Masters, Esq.
Wiley Rein & Fielding LLP
1776 K Street, NW
Washington, DC 20006



J.J. McVeigh